

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARGARET GILBERT,

Plaintiff,

-against-

GC SERVICES, LP,

Defendant.

VERIFIED COMPLAINT

NOW COMES Plaintiff, MARGARET GILBERT ("Plaintiff"), by and through her attorneys, Krohn & Moss, Ltd., for her Verified Complaint against Defendant, GC SERVICES, LP ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

Parties

2. Plaintiff is a natural person residing in Spencerport, Monroe County, New York.
3. Plaintiff is allegedly obligated to pay a debt and is a consumer as defined by 15 U.S.C. § 1692a(3).
4. Defendant is a company conducting business in the state of New York.
5. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiff.
6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

7. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

8. Because Defendant conducts business in New York, personal jurisdiction is established

9. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

Factual Allegations

10. In or around October of 2012, Defendant placed collection calls to Plaintiff seeking and demanding payment for an alleged consumer debt.

11. Plaintiff’s alleged debt arises from transactions used for personal, family, and household purposes.

12. Defendant called Plaintiff’s telephone number at 585-352-33XX.

13. In or around October of 2012, Defendant called Plaintiff and left a voicemail message on Plaintiff’s answering machine. *See* transcribed voicemail message attached hereto as Exhibit A.

14. In the voicemail message, Defendant’s representative, “Linda” failed to meaningfully disclose the company’s name, the nature of the call, or state that the call was from a debt collector. *See* Exhibit A.

15. In the voicemail message, Defendant’s representative, “Linda”, directed Plaintiff to return the call at 1-866-862-2793, extension 2729 which is a number that belongs to Defendant. *See* Exhibit A.

16. Defendant is using false, deceptive and misleading means in connection with attempting to collect a debt by not identifying the purpose of its phone calls or that they are an attempt to collect a debt.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

17. Defendant violated the FDCPA based on the following:

- a. Defendant violated § 1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. Defendant violated § 1692d(6) of the FDCPA by placing telephone calls without meaningful disclosure of the caller's identity because Defendant did not provide the identity of the caller or the nature of the debt.
- c. Defendant violated § 1692e of the FDCPA by using false, deceptive or misleading representations or means in connection with the collection of a debt.
- d. Defendant violated § 1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt.
- e. Defendant violated § 1692e(11) of the FDCPA by failing to disclose that the call was from a debt collector.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

- (1) Statutory damages of \$1000.00 pursuant to 15 U.S.C. § 1692k;
- (2) Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and
- (3) Awarding such other and further relief as may be just, proper and equitable.

KROHN & MOSS, LTD.

By: 

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